

ESTTA Tracking number: **ESTTA606855**

Filing date: **05/28/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Academy, Ltd.
Granted to Date of previous extension	05/28/2014
Address	1800 North Mason Road Katy, TX 77449 UNITED STATES
Attorney information	Darin M. Klemchuk Klemchuk Kubasta LLP 8150 N Central Expressway, 10th Floor Dallas, TX 75206 UNITED STATES darin.klemchuk@kk-llp.com, claudia.alvarado@kk-llp.com, shannon@kk-llp.com Phone:214367600

Applicant Information

Application No	86058142	Publication date	01/28/2014
Opposition Filing Date	05/28/2014	Opposition Period Ends	05/28/2014
Applicant	Gander Mountain Company Suite 1300 St. Paul, MN 55101 UNITED STATES		

Goods/Services Affected by Opposition

Class 038. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Providing Online Forums and Chat Rooms for Transmission of Images and Messages Among Computer Users in the Fields of Firearms, Firearm Operation and Safety, Shooting, Marksmanship, Target Practice, Self Defense, Hunting, and Other Outdoor Skills

Applicant Information

Application No	86058164	Publication date	02/04/2014
Opposition Filing Date	05/28/2014	Opposition Period Ends	
Applicant	Gander Mountain Company Suite 1300 St. Paul, MN 55101 UNITED STATES		

Goods/Services Affected by Opposition

Class 038. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Providing Online Forums and Chat Rooms for Transmission of Images and Messages Among Computer Users in the Fields of Firearms, Firearm Operation and Safety, Shooting, Marksmanship, Target Practice, Self Defense, Hunting, and Other Outdoor Skills

Applicant Information

Application No	86140384	Publication date	05/20/2014
Opposition Filing Date	05/28/2014	Opposition Period Ends	06/19/2014
Applicant	Gander Mountain Company Suite 1300 St. Paul, MN 55101 UNITED STATES		

Goods/Services Affected by Opposition

Class 013. First Use: 2014/02/08 First Use In Commerce: 2014/03/01

All goods and services in the class are opposed, namely: Gun Cases; Ammunition Bags and Cases

Applicant Information

Application No	86140394	Publication date	05/20/2014
Opposition Filing Date	05/28/2014	Opposition Period Ends	06/19/2014
Applicant	Gander Mountain Company Suite 1300 St. Paul, MN 55101 UNITED STATES		

Goods/Services Affected by Opposition

Class 018. First Use: 2014/02/08 First Use In Commerce: 2014/03/01


All goods and services in the class are opposed, namely: Luggage, Duffle Bags


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1911968	Application Date	04/07/1994
Registration Date	08/15/1995	Foreign Priority Date	NONE
Word Mark	ACADEMY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1951/00/00 First Use In Commerce: 1951/00/00 retail store services in the field of western wear; hunting, fishing and sporting equipment and outfitting; sporting and athletic equipment, gear and foot-		


	wear;and outdoor and recreational equipment,outfitting and merchandise		
U.S. Registration No.	2834786	Application Date	04/04/2000
Registration Date	04/20/2004	Foreign Priority Date	NONE
Word Mark	ACADEMY.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2003/03/28 First Use In Commerce: 2003/03/28 ONLINE RETAIL STORE SERVICES FEATURING SPORTING GOODS, ATHLETIC EQUIPMENT, APPAREL, AND FOOTWEAR; AND ISSUING GIFT CERTIFICATES WHICH MAY THEN BE REDEEMED FOR GOODS OR SERVICES; AND COMPUTER SERVICES, NAMELY, PROVIDING ONLINE COMPUTER DATABASES FEATURING CONSUMER PRODUCT REVIEWSAND COMPARISONS, AND MERCHANDISE DESCRIPTIONS AND INFORMATION BY MEANS OF A GLOBAL COMPUTER NETWORK</p> <p>Class 041. First use: First Use: 2003/03/28 First Use In Commerce: 2003/03/28 COMPUTER SERVICES, NAMELY PROVIDING INFORMATION ON SPORTS AND OUTDOOR ACTIVITIES VIA A GLOBAL COMPUTER NETWORK</p>		


U.S. Registration No.	3338039	Application Date	11/06/2006
Registration Date	11/20/2007	Foreign Priority Date	NONE
Word Mark	ACADEMY SPORTS + OUTDOORS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2003/02/06 First Use In Commerce: 2003/02/06 Online retail store services featuring camping, fishing, hiking, hunting, outdoor, and recreational equipment, outfitting, and merchandise; sporting goods and athletic apparel, equipment, gear, and footwear; women's, men's, and youth apparel, footwear, swimwear, beachwear, and beach bags; baby strollers, jogging strollers, motorized scooters, and motorized scooter wheels; all purpose sports bags and luggage; manually operated exercise equipment, namely exercise machines, exercise benches, exercise tables, and weight lifting machines; and issu-</p>		

	<p>ing gift certificates which may then be redeemed for goods or services; and computer services, namely, providing online computer databases featuring consumer product reviews and comparisons, and merchandise descriptions and information by means of a global computer network; retail store services in the field of camping, fishing, hiking, hunting, outdoor, and recreational equipment, outfitting, and merchandise; sporting goods and athletic apparel, equipment, gear, and footwear; women's, men's, and youth apparel, footwear, swimwear, beachwear, and beach bags; baby strollers, jogging strollers, motorized scooters, and motorized scooter wheels; all purpose sports bags and luggage; and manually operated exercise equipment, namely exercise machines, exercise benches, exercise tables, and weight lifting machines</p> <p>Class 041. First use: First Use: 2003/02/06 First Use In Commerce: 2003/02/06 Computer services, namely, providing information on sports and outdoor activities via a global computer network; entertainment in the nature of on-going television programs in the field of hunting and fishing distributed over [television and] the Internet</p>
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U.S. Registration No.	3305400	Application Date	10/25/2006
Registration Date	10/09/2007	Foreign Priority Date	NONE
Word Mark	ACADEMY OUTDOORS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/12/27 First Use In Commerce: 2005/12/27 Entertainment in the nature of on-going television programs in the field of hunting and fishing distributed over [television and] the internet		

U.S. Registration No.	4349037	Application Date	05/08/2012
Registration Date	06/11/2013	Foreign Priority Date	NONE
Word Mark	ACADEMY		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 035. First use: First Use: 2003/03/28 First Use In Commerce: 2003/03/28 Online retail store services featuring camping, fishing, hiking, hunting, outdoor, and recreational equipment, outfitting, and merchandise; online retail store services featuring sporting goods, equipment and gear; online retail store services featuring apparel, footwear, swimwear, beachwear, and beach bags; online retail store services featuring baby strollers, jogging strollers, motorized scooters, motorized scooter wheels, all purpose sports bags and luggage; online retail store services featuring manually operated exercise equipment, namely exercisemachines, exercise benches, exercise tables, and weight lifting machines; online retail store services, namely issuing gift certificates which may be re-deemed for goods or services; computer services, namely, providing online computer databases featuring consumer product reviewsand comparisons, and merchandise descriptions and information; the foregoing services are offered through a traditionalwebsite and also through social media platforms</p> <p>Class 041. First use: First Use: 2003/03/28 First Use In Commerce: 2003/03/28 Computer services, namely, providing information online about sports and outdoor activities; entertainment in the nature of on-going programs in the field of hunting and fishing distributed over television and the Internet; the foregoing services are also offered through social media platforms</p>

U.S. Application No.	86256431	Application Date	04/18/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ACADEMY SPORTS + OUTDOORS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 002. First use: First Use: 2001/04/17 First Use In Commerce: 2001/04/17 Paints; paints for arts and crafts; window paint		

	<p>Class 003. First use: First Use: 2013/06/13 First Use In Commerce: 2013/06/13 Lip balm</p> <p>Class 006. First use: First Use: 2011/04/09 First Use In Commerce: 2011/04/09 Metal gift tins; metal containers for propane gas, sold empty; metal containers for fuel, sold empty</p> <p>Class 007. First use: First Use: 2012/03/21 First Use In Commerce: 2012/03/21 Aerators</p> <p>Class 009. First use: First Use: 2003/03/08 First Use In Commerce: 2003/03/08 Batteries; magnetically encoded gift cards; retainers for eyeglasses and sunglasses; straps for eyeglasses and sunglasses; visor clips for use with sunglasses and eyeglasses; lens cloths; air horns; megaphones</p> <p>Class 010. First use: First Use: 2013/03/05 First Use In Commerce: 2013/03/05 Ear plugs for swimming; ear plugs for noise reduction</p> <p>Class 011. First use: First Use: 2010/08/20 First Use In Commerce: 2010/08/20 Lighters primarily for lighting grills, fireplaces and candles; flashlights</p> <p>Class 012. First use: First Use: 2012/04/27 First Use In Commerce: 2012/04/27 Carts; Non-motorized carts for transporting and storing recreational and sport equipment</p> <p>Class 013. First use: First Use: 2008/06/20 First Use In Commerce: 2008/06/20 Firearm scope covers; gun cases; gun socks</p> <p>Class 016. First use: First Use: 1994/09/10 First Use In Commerce: 1994/09/10 Scorebooks</p> <p>Class 018. First use: First Use: 2007/03/21 First Use In Commerce: 2007/03/21 Athletic bags; bags for sports; sports bags; umbrellas</p> <p>Class 020. First use: First Use: 2008/09/04 First Use In Commerce: 2008/09/04 Portable folding stadium seats; stadium seats; portable chairs; tables; folding tables</p> <p>Class 021. First use: First Use: 2007/01/27 First Use In Commerce: 2007/01/27 Cleaning cloths; cloths for cleaning sunglasses and eyeglasses; buckets; plastic buckets; serving platters; portable coolers; portable beverage coolers; plastic water bottles sold empty; water bottles sold empty; insulated containers for beverage cans for domestic use; mugs</p> <p>Class 022. First use: First Use: 2012/03/06 First Use In Commerce: 2012/03/06 Canopies; tents for providing shade</p> <p>Class 024. First use: First Use: 2012/05/11 First Use In Commerce: 2012/05/11 Towels; sports towels</p> <p>Class 025. First use: First Use: 2006/09/01 First Use In Commerce: 2006/09/01 Clothing, namely, shirts, t-shirts, headwear, aprons; skull caps</p> <p>Class 028. First use: First Use: 2008/01/17 First Use In Commerce: 2008/01/17 Fishing tackle bags; sportsman's fishing bags; fishing rod covers; personal exercise mat; firearm targets; targets; Swim floats for recreational use; beach balls; play balls; floats for fishing, Fishing reels; fishing rods; artificial fishing bait; fishing tackle containers; fishing weights; fishing hooks; fishing lines, fishing equipment, namely rod wraps to attach to fishing rods; Terminal fishing tackle, fishing accessories, namely, crab traps, minnow seines, lures, reel cases; Tents; Terminal fishing tackle, fishing accessories, namely, crab traps, minnow seines, lures, reel cases; deer feeders for luring deer for hunting purposes; Golf bags; flying discs</p> <p>Class 029. First use: First Use: 2013/01/22 First Use In Commerce: 2013/01/22 Banana chips, wasabi peas, Trail mix consisting primarily of processed nuts, seeds, dried fruit and also including chocolate, beef jerky, processed sunflower</p>
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	seeds Class 030. First use: First Use: 2013/01/22 First Use In Commerce: 2013/01/22 Cheese flavored snacks, namely, cheese curls; pretzels; bubble gum Class 031. First use: First Use: 2011/08/28 First Use In Commerce: 2011/08/28 Deer corn Class 032. First use: First Use: 2010/06/11 First Use In Commerce: 2010/06/11 Bottled water
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Attachments	76017934#TMSN.gif(bytes) 77037343#TMSN.jpeg(bytes) 77029026#TMSN.jpeg(bytes) 85619910#TMSN.jpeg(bytes) 86256431#TMSN.jpeg(bytes) Notice of Opposition_as filed.pdf(298053 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Darin M. Klemchuk/
Name	Darin M. Klemchuk
Date	05/28/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Applications of Gander Mountain Company	§	
	§	
Serial No.: 86/058,139	§	
Mark: GANDER MTN. ACADEMY	§	
Filed: September 6, 2013	§	
Published: February 25, 2014	§	
	§	
Serial No.: 86/058,142	§	
Mark: GANDER MTN. ACADEMY	§	
Filed: September 6, 2013	§	
Published: January 28, 2014	§	
	§	
Serial No.: 86/058,158	§	
Mark: GANDER MTN. ACADEMY & Design	§	
Filed: September 6, 2013	§	Opposition No. _____
Published: February 25, 2014	§	
	§	
Serial No.: 86/058,164	§	
Mark: GANDER MTN. ACADEMY & Design	§	
Filed: September 6, 2013	§	
Published: February 4, 2014	§	
	§	
Serial No.: 86/140,384	§	
Mark: GANDER MTN. ACADEMY	§	
Filed: December 11, 2013	§	
Published: May 20, 2014	§	
	§	
Serial No.: 86/140,394	§	
Mark: GANDER MTN. ACADEMY	§	
Filed: December 11, 2013	§	
Published: May 20, 2014	§	
	§	
Academy, Ltd.,	§	
Opposer,	§	
	§	
v.	§	
	§	
Gander Mountain Company,	§	
Applicant.	§	

CONSOLIDATED NOTICE OF OPPOSITION

Academy, Ltd. (“Opposer”), a limited partnership organized and existing under the laws of the State of Texas, having its principal place of business at 1800 North Mason Road, Katy, Texas 77449, believes that it will be damaged by registration of the following marks, filed in the name of Gander Mountain Company, a corporation existing under the laws of the State of Minnesota, having its principal place of business at 180 East Fifth Street, Suite 1300, St. Paul, Minnesota 55101 (“Applicant” or “GMC”), and hereby opposes the same under the provisions of 15 U.S.C. § 1063:

Mark: **GANDER MTN. ACADEMY**
Serial No.: 86/058,139
Filed: September 6, 2013
Int’l Class: 09
Published: February 25, 2014

Mark: **GANDER MTN. ACADEMY**
Serial No.: 86/058,142
Filed: September 6, 2013
Int’l Class: 38
Published: January 28, 2014

Mark: **GANDER MTN. ACADEMY & Design**
Serial No.: 86/058,158
Filed: September 6, 2013
Int’l Class: 9
Published: February 25, 2014

Mark: **GANDER MTN. ACADEMY & Design**
Serial No.: 86/058,164
Filed: September 6, 2013
Int’l Class: 38
Published: February 4, 2014

Mark: **GANDER MTN. ACADEMY**
Serial No.: 86/140,384
Filed: December 11, 2013
Int’l Class: 13

Published: May 20, 2014

Mark: **GANDER MTN. ACADEMY**

Serial No.: 86/140,394

Filed: December 11, 2013

Int'l Class: 18

Published: MAY 20, 2014

As grounds for opposition, Opposer asserts that:

1. Opposer, through its predecessor in interest, commenced use of the mark ACADEMY for use in connection with the retail sale of sporting goods and apparel at least as early as 1951. Since that time, Opposer, or its predecessor in interest, has continually used the mark ACADEMY in commerce and has expanded its use to cover numerous goods and services. Opposer has also used the marks ACADEMY.COM, ACADEMY SPORTS + OUTDOORS, as well as other marks that include “ACADEMY” for many years. Together, Opposer’s ACADEMY-formative marks are referred to herein as the “ACADEMY Marks.”

2. Opposer is one of the largest sporting goods and apparel retailers in the United States, operating over 176 stores under the ACADEMY Marks in 13 states, and also operating an extensive website and online retail store at www.academy.com. Opposer sells a wide array of products in its retail stores, including many types of apparel and products including and related to firearms, firearm safety, shooting, marksmanship, target practice, self-defense, hunting, and other outdoor skills.

3. Opposer is the owner of U.S. Registration No. 1,911,968 for the mark ACADEMY for “retail store services in the field of western wear; hunting, fishing and sporting equipment and outfitting; sporting and athletic equipment, gear and footwear; and outdoor and recreational

equipment, outfitting and merchandise,” in International Class 42. This registration issued on August 15, 1995, is valid and subsisting, and is now incontestable.

4. Opposer is also the owner of U.S. Registration No. 2,834,786 for the mark ACADEMY.COM for “online retail store services featuring sporting goods, athletic equipment, apparel, and footwear; and issuing gift certificates which may then be redeemed for goods or services; and computer services, namely, providing online computer databases featuring consumer product reviews and comparisons, and merchandise descriptions and information by means of a global computer network” in International Class 35, and “computer services, namely providing information on sports and outdoor activities via a global computer network” in International Class 41. This registration issued on April 20, 2004, is valid and subsisting, and is now incontestable.

5. Opposer is also the owner of U.S. Registration No. 3,338,039 for the mark ACADEMY SPORTS + OUTDOORS for “Online retail store services featuring camping, fishing, hiking, hunting, outdoor, and recreational equipment, outfitting, and merchandise; sporting goods and athletic apparel, equipment, gear, and footwear; women's, men's, and youth apparel, footwear, swimwear, beachwear, and beach bags; baby strollers, jogging strollers, motorized scooters, and motorized scooter wheels; all purpose sports bags and luggage; manually operated exercise equipment, namely exercise machines, exercise benches, exercise tables, and weight lifting machines; and issuing gift certificates which may then be redeemed for goods or services; and computer services, namely, providing online computer databases featuring consumer product reviews and comparisons, and merchandise descriptions and information by means of a global computer network; retail store services in the field of camping, fishing, hiking, hunting, outdoor, and recreational equipment, outfitting, and merchandise; sporting goods and athletic apparel,

equipment, gear, and footwear; women's, men's, and youth apparel, footwear, swimwear, beachwear, and beach bags; baby strollers, jogging strollers, motorized scooters, and motorized scooter wheels; all purpose sports bags and luggage; and manually operated exercise equipment, namely exercise machines, exercise benches, exercise tables, and weight lifting machines" in International Class 35 and "Computer services, namely providing information on sports and outdoor activities via a global computer network; entertainment in the nature of on-going television programs in the field of hunting and fishing distributed over television and the Internet" in International Class 41. This registration issued on November 20, 2007, is valid and subsisting, and is now incontestable.

6. Opposer is also the owner of U.S. Reg. No. 3,305,400 for the mark ACADEMY OUTDOORS for "Entertainment in the nature of on-going television programs in the field of hunting and fishing distributed over [television and] the internet" in Class 41. The registration issued on October 9, 2007, is valid and subsisting, and is now incontestable.

7. Opposer is also the owner of U.S. Reg. No. 4,349,037 for the mark ACADEMY for "Online retail store services featuring camping, fishing, hiking, hunting, outdoor, and recreational equipment, outfitting, and merchandise; online retail store services featuring sporting goods, equipment and gear; online retail store services featuring apparel, footwear, swimwear, beachwear, and beach bags; online retail store services featuring baby strollers, jogging strollers, motorized scooters, motorized scooter wheels, all purpose sports bags and luggage; online retail store services featuring manually operated exercise equipment, namely exercise machines, exercise benches, exercise tables, and weight lifting machines; online retail store services, namely issuing gift certificates which may be redeemed for goods or services; computer services, namely, providing

online computer databases featuring consumer product reviews and comparisons, and merchandise descriptions and information; the foregoing services are offered through a traditional website and also through social media platforms” in International Class 35 and “Computer services, namely, providing information online about sports and outdoor activities; entertainment in the nature of on-going programs in the field of hunting and fishing distributed over television and the internet; the foregoing services are also offered through social media platforms” in Class 41. The registration issued on June 11, 2013 and is valid and subsisting.

8. Opposer is also the owner of pending application Serial No. 86/256,431 for the mark ACADEMY SPORTS + OUTDOORS for “Paints; paints for arts and crafts; window paint” in Class 2 and “Lip balm” in Class 3 and “Metal gift tins; metal containers for propane gas, sold empty; metal containers for fuel, sold empty” in Class 6 and “Aerators” in Class 7 and “Batteries; magnetically encoded gift cards; retainers for eyeglasses and sunglasses; straps for eyeglasses and sunglasses; visor clips for use with sunglasses and eyeglasses; lens cloths; air horns; megaphones” in Class 9 and “Ear plugs for swimming; ear plugs for noise reduction” in Class 10 and “Lighters primarily for lighting grills, fireplaces and candles; flashlights” in Class 11 and “Carts; non-motorized carts for transporting and storing recreational and sports equipment” in Class 12 and “Firearm scope covers; gun cases; gun socks” in Class 13 and “Scorebooks” in Class 16 and “Athletic bags; bags for sports; sports bags; umbrellas” in Class 18 and “Portable folding stadium seats; stadium seats; portable chairs; tables; folding tables” in Class 20 and “Cleaning cloths; cloths for cleaning sunglasses and eyeglasses; buckets; plastic buckets; serving platters; portable coolers; portable beverage coolers; plastic water bottles sold empty; water bottles sold empty; insulated containers for beverage cans for domestic use; mugs” in Class 21 and “Canopies; tents for

providing shade” in Class 22 and “Towels; sports towels” in Class 24 and “Clothing, namely, shirts, t-shirts, headwear, aprons; skull caps” in Class 25 and “Fishing tackle bags; sportsman's fishing bags; fishing rod covers; personal exercise mat; firearm targets; targets; swim floats for recreational use; beach balls; play balls; floats for fishing, fishing reels; fishing rods; artificial fishing bait; fishing tackle containers; fishing weights; fishing hooks; fishing lines, fishing equipment, namely rod wraps to attach to fishing rods; terminal fishing tackle, fishing accessories, namely, crab traps, minnow seines, lures, reel cases; tents; terminal fishing tackle, fishing accessories, namely, crab traps, minnow seines, lures, reel cases; deer feeders for luring deer for hunting purposes; golf bags; flying discs” in Class 28 and “Banana chips, wasabi peas, trail mix consisting primarily of processed nuts, seeds, dried fruit and also including chocolate, beef jerky, processed sunflower seeds” in Class 29 and “Cheese flavored snacks, namely, cheese curls; pretzels; bubble gum” in Class 30 and “Deer corn” in Class 31 and “Bottled water” in Class 32. The application was filed on April 18, 2014 as a use-based application (the “Pending Application”).

9. Opposer’s use of its mark and resulting sales of goods and services in connection with its ACADEMY Marks has been extensive. Moreover, Opposer uses the ACADEMY Marks in connection with goods and services in Classes 9, 13, and 18, and in connection with goods and services, including informational material, related to firearms, firearm safety, shooting, marksmanship, target practice, self-defense, hunting and other outdoor skills.

10. Opposer has a pervasive presence in the marketplace in the fields of firearms, firearms safety, shooting, marksmanship, target practice, self-defense, sporting goods, hunting, fishing, camping and outdoor recreation. In addition to Opposer’s registrations, Opposer has

used its ACADEMY mark in connection with gun cases, socks, and bags since as early as 2008, and therefore has accrued common law rights to the mark in connection with these goods.

11. Opposer has expended vast resources to promote its ACADEMY Marks.

12. As a result of Opposer's long usage and extensive promotion, Opposer has developed valuable goodwill and strong common law rights in its ACADEMY Marks. Moreover, the ACADEMY Marks have become well-known and widely recognized to consumers.

13. On or about September 6, 2013, Applicant filed an application with the U.S. Patent and Trademark Office, Application Serial No. 86/058,139, seeking registration on the Principal Register of the mark GANDER MTN. ACADEMY. The application covers use of the mark in connection with "Downloadable course curriculum materials consisting of text files and video files intended for use in connection with instruction in the fields of firearms, firearm operation and safety, shooting, marksmanship, target practice, self defense, hunting, and other outdoor skills" in International Class 9 as evidenced by publication of said mark in the February 25, 2014 edition of the Official Gazette. The application is based on an intention to use the mark in commerce.

14. On or about September 6, 2013, Applicant filed an application with the U.S. Patent and Trademark Office, Application Serial No. 86/058,142 seeking registration on the Principal Register of the mark GANDER MTN. ACADEMY. The application covers use of the mark in connection with "Providing online forums and chat rooms for transmission of images and messages among computer users in the fields of firearms, firearm operation and safety, shooting, marksmanship, target practice, self defense, hunting, and other outdoor skills" in International

Class 38 as evidenced by publication of said mark in the January 28, 2014 edition of the Official Gazette. The application was filed based on an intention to use the mark in commerce.

15. On or about September 6, 2013, Applicant filed an application with the U.S. Patent and Trademark Office, Application Serial No. 86/058,158, seeking registration on the Principal Register of the mark GANDER MTN. ACADEMY & Design. The application covers use of the mark in connection with “Downloadable course curriculum materials consisting of text files and video files intended for use in connection with instruction in the fields of firearms, firearm operation and safety, shooting, marksmanship, target practice, self defense, hunting, and other outdoor skills” in International Class 9 as evidenced by publication of said mark in the February 25, 2014 edition of the Official Gazette. The application was filed based on an intention to use the mark in commerce.

16. On or about September 6, 2013, Applicant filed an application with the U.S. Patent and Trademark Office, Application Serial No. 86/058,164, seeking registration on the Principal Register of the mark GANDER MTN. ACADEMY & Design. The application covers use of the mark in connection with “Providing online forums and chat rooms for transmission of images and messages among computer users in the fields of firearms, firearm operation and safety, shooting, marksmanship, target practice, self defense, hunting, and other outdoor skills” in International Class 38 as evidenced by publication of said mark in the February 4, 2014 edition of the Official Gazette. The application was filed based on an intention to use the mark in commerce.

17. On or about December 11, 2013, Applicant filed an application with the U.S. Patent and Trademark Office, Application Serial No. 86/140,384, seeking registration on the

Principal Register of the mark GANDER MTN. ACADEMY. The application covers use of the mark in connection with “Gun cases; ammunition bags and cases” in International Class 13 as evidenced by publication of said mark in the May 20, 2014 edition of the Official Gazette. The application claims that the mark has been in use since at least as early as February 8, 2014 and in use in interstate commerce since at least as early as March 1, 2014.

18. On or about December 11, 2013, Applicant filed an application with the U.S. Patent and Trademark Office, Application Serial No. 86/140,394, seeking registration on the Principal Register of the mark GANDER MTN. ACADEMY. The application covers use of the mark in connection with “Luggage, duffle bags” in International Class 18 as evidenced by publication of said mark in the December 11, 2013 edition of the Official Gazette. The application claims that the mark has been in use since at least as early as February 8, 2014 and in use in interstate commerce since at least as early as March 1, 2014.

19. The marks identified in Paragraphs 13-18 are collectively referred to as “Applicant’s Applications.”

20. Commencing prior to both the filing date and the dates of first use identified in the Applicant’s Applications, and continuing to the present, Opposer has priority over Applicant based on the prior use and registration of the ACADEMY Marks. Therefore, there is no issue of priority.

21. Opposer will be damaged if the Applicant’s Applications mature to registration because the marks identified in the Applicant’s Applications are so similar to Opposer’s ACADEMY Marks in sight, sound, and meaning, and because Applicant’s Applications identify goods and services so closely related to those goods and services for which Opposer’s ACADEMY

Marks are used and/or registered, including many identical or related goods sold through Opposer's retail outlets, that contemporaneous use and registration will create a likelihood of consumer confusion and lead to deception as to source or sponsorship. Therefore, registration should be refused under 15 U.S.C. § 1052(d).

22. Upon learning of products and services offered under Applicant's marks identified in Applicant's Applications, the general public and others familiar with Opposer's ACADEMY Marks will likely believe that such products have originated from Opposer or were offered in association or affiliation with, or under authorization by, Opposer. Thus, the marks identified in Applicant's Applications, as used with its proposed goods and services, will lead persons to believe that Applicant's goods and services are offered by, associated with, or sponsored by Opposer.

23. If Applicant is permitted to register the marks identified in Applicant's Applications, such use and registration will result in confusion in the trade due to similarity between such marks and the ACADEMY Marks, thereby damaging and injuring Opposer. Furthermore, any defect, objection, or fault found with Applicant's products or services may reflect upon and injure the reputation that Opposer has established for its goods and services in association with its ACADEMY Marks.

24. Opposer will be damaged if Applicant's Applications mature to registration because such registrations would purport to give Applicant *prima facie* evidence of the exclusive right to use the marks identified in Applicant's Applications in connection with the goods and services identified, which would be inconsistent with Opposer's long use of and right to use its ACADEMY Marks in connection with the good sand services identified therein.

Wherefore, Opposer respectfully prays that its Opposition be sustained and the applications for registration, Application Serial No. 86/058,139, Application Serial No. 86/058,142, Application Serial No. 86/058,158, Application Serial No. 86/058,164, Application Serial No. 86/140,384, and Application Serial No. 86/140,394 be rejected, and that registration of the marks identified therein be refused.

Date: May 28, 2014



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Certificate of Service

I hereby certify that a service copy of the foregoing Notice of Opposition was sent via First Class Mail Return Receipt Requested, postage pre-paid, upon Applicant's attorney of record at the address below on Wednesday, May 28, 2014:

Jeffrey R. Cadwell
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Claudia S. Alvarado

Certificate of Transmission

I hereby certify that the foregoing Notice of Opposition is being filed electronically through <http://estta.uspto.gov> via the Trademark Trial and Appeal Board Electronic Filing System on Wednesday, May 28, 2014.



Claudia S. Alvarado